

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 * * *

5 STEPHANIE GORDON,

6 Plaintiff,

7 v.

8 SKY RANCH MOTEL,

9 Defendant.
10

Case No. 2:21-cv-00642-APG-DJA

REPORT AND RECOMMENDATION

11 This matter is before the Court on pro se Plaintiff Stephanie Gordon's application to
12 proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 1) and Complaint (ECF No. 1-
13 1), filed on April 19, 2020.

14 Plaintiff indicates that she is homeless and is not receiving any income. However, given
15 the fatal flaws in the complaint, the Court will recommend that her application be denied as moot.

16 Preliminarily, Plaintiff appears to attempt to assert criminal charges of mail theft against
17 an employee of the Sky Ranch Motel. She does not claim that she reported the alleged
18 withholding of her payment to the police, but rather, she indicates that she filed a complaint with
19 the U.S. Postal Service. 18 U.S.C. § 1915(d) gives the court the power to dismiss "claims whose
20 factual contentions are clearly baseless." *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989).

21 Plaintiff has failed to state any sort of cognizable claim that would grant the Court jurisdiction
22 over this civil case. The Court cannot decipher any logical set of facts in her submission or any
23 rights that may have been violated. As such, the Court therefore concludes that this case is
24 frivolous because it lacks an arguable basis in law and fact. *See Neitzke*, 490 U.S. at 325. As
25 Plaintiff's complaint is factually frivolous and does not set forth a plausible claim, it should be
26 dismissed without leave to amend as it is apparent that amendment is futile.

27 ///
28

RECOMMENDATION

For the foregoing reasons, IT IS HEREBY RECOMMENDED that this case be **DISMISSED** and that Plaintiff's application to proceed *in forma pauperis* be **DENIED** as moot.

NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within 14 days of service of this document. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: April 26, 2021



DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE